

AMENDED IN SENATE AUGUST 20, 2010  
AMENDED IN SENATE JUNE 16, 2010  
AMENDED IN SENATE MAY 25, 2010  
AMENDED IN SENATE SEPTEMBER 11, 2009  
AMENDED IN SENATE SEPTEMBER 10, 2009  
AMENDED IN SENATE SEPTEMBER 4, 2009  
AMENDED IN SENATE JULY 1, 2009  
AMENDED IN ASSEMBLY APRIL 27, 2009  
AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 569**

**Introduced by Assembly Member Emmerson**

February 25, 2009

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An act to amend Section 512 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 569, as amended, Emmerson. Meal periods: exemptions.

Existing law prohibits, subject to certain exceptions, an employer from requiring an employee to work more than 5 hours per day without providing a meal period and, notwithstanding that provision, authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after 6 hours of work if the order is consistent with the health and welfare of affected employees.

This bill would exempt from these provisions employees in a construction occupation, commercial drivers ~~in the transportation industry~~, employees in the security services industry employed as security officers, and employees of electrical and gas corporations or local publicly owned electric utilities, as defined, if those employees are covered by a valid collective bargaining agreement containing specified terms, including meal period provisions. It would specify that its provisions do not affect the requirements for meal periods for certain other employees or employers.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 512 of the Labor Code is amended to  
2 read:

3 512. (a) An employer may not employ an employee for a work  
4 period of more than five hours per day without providing the  
5 employee with a meal period of not less than 30 minutes, except  
6 that if the total work period per day of the employee is no more  
7 than six hours, the meal period may be waived by mutual consent  
8 of both the employer and employee. An employer may not employ  
9 an employee for a work period of more than 10 hours per day  
10 without providing the employee with a second meal period of not  
11 less than 30 minutes, except that if the total hours worked is no  
12 more than 12 hours, the second meal period may be waived by  
13 mutual consent of the employer and the employee only if the first  
14 meal period was not waived.

15 (b) Notwithstanding subdivision (a), the Industrial Welfare  
16 Commission may adopt a working condition order permitting a  
17 meal period to commence after six hours of work if the commission  
18 determines that the order is consistent with the health and welfare  
19 of the affected employees.

20 (c) Subdivision (a) does not apply to an employee in the  
21 wholesale baking industry who is subject to an Industrial Welfare  
22 Commission wage order and who is covered by a valid collective  
23 bargaining agreement that provides for a 35-hour workweek  
24 consisting of five 7-hour days, payment of one and one-half times  
25 the regular rate of pay for time worked in excess of seven hours

1 per day, and a rest period of not less than 10 minutes every two  
2 hours.

3 (d) If an employee in the motion picture industry or the  
4 broadcasting industry, as those industries are defined in Industrial  
5 Welfare Commission Wage Order Numbers 11 and 12, is covered  
6 by a valid collective bargaining agreement that provides for meal  
7 periods and includes a monetary remedy if the employee does not  
8 receive a meal period required by the agreement, then the terms,  
9 conditions, and remedies of the agreement pertaining to meal  
10 periods apply in lieu of the applicable provisions pertaining to  
11 meal periods of subdivision (a) of this section, Section 226.7, and  
12 Industrial Welfare Commission Wage Order Numbers 11 and 12.

13 (e) Subdivisions (a) and (b) do not apply to an employee  
14 specified in subdivision (f) if both of the following conditions are  
15 satisfied:

16 (1) The employee is covered by a valid collective bargaining  
17 agreement.

18 (2) The valid collective bargaining agreement expressly provides  
19 for the wages, hours of work, and working conditions of  
20 employees, and expressly provides for meal periods for those  
21 employees, final and binding arbitration of disputes concerning  
22 application of its meal period provisions, premium wage rates for  
23 all overtime hours worked, and a regular hourly rate of pay of not  
24 less than 30 percent more than the state minimum wage rate.

25 (f) Subdivision (e) applies to each of the following employees:

26 (1) An employee employed in a construction occupation.

27 (2) An employee employed as a commercial driver ~~in the~~  
28 ~~transportation industry.~~

29 (3) An employee employed in the security services industry as  
30 a security officer who is registered pursuant to Chapter 11.5  
31 (commencing with Section 7580) of Division 3 of the Business  
32 and Professions Code, and who is employed by a private patrol  
33 operator registered pursuant to that chapter.

34 (4) An employee employed by an electrical corporation, a gas  
35 corporation, or a local publicly owned electric utility.

36 (g) The following definitions apply for the purposes of this  
37 section:

38 (1) "Commercial driver" means an employee who operates a  
39 vehicle described in Section 260 or 462 of, or subdivision (b) of  
40 Section 15210 of, the Vehicle Code.

(2) “Construction occupation” means all job classifications associated with construction by Article 2 (commencing with Section 7025) of Chapter 9 of Division 3 of the Business and Professions Code, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, and repair, and any other similar or related occupation or trade.

(3) “Electrical corporation” has the same meaning as provided in Section 218 of the Public Utilities Code.

(4) “Gas corporation” has the same meaning as provided in Section 222 of the Public Utilities Code.

(5) “Local publicly owned electric utility” has the same meaning as provided in Section 224.3 of the Public Utilities Code.

SEC. 2. Notwithstanding any other provision of law, paragraphs (1) and (2) of subdivision (e) of Section 512 of the Labor Code do not affect the nature or scope of the law related to meal periods, including the timing of commencement of a meal period, for employees or employers not specifically covered by paragraphs (1) and (2) of subdivision (e) of Section 512 of the Labor Code.

SEC. 3. Notwithstanding any other provision of law, including applicable Industrial Welfare Commission orders, the addition of paragraph (3) of subdivision (f) to Section 512 of the Labor Code made by this act does not affect the nature or scope of the law relating to meal periods for security officers who are not covered by a valid collective bargaining agreement.